

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**CONSUMER FINANCIAL PROTECTION BUREAU**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO. 3:16-cv-00356-WHB-JCG**

**ALL AMERICAN CHECK CASHING, INC.;  
MID-STATE FINANCE, INC.; and  
MICHAEL E. GRAY, individually**

**DEFENDANTS**

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**PLAINTIFF'S INITIAL DISCLOSURES  
PURSUANT TO FED.R.CIV.P 26(a)(1)**

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Plaintiff Consumer Financial Protection Bureau ("Bureau"), pursuant to Fed.R.Civ.P. 26(a)(1) ("Rule 26(a)(1)"), hereby makes the following initial disclosures to Defendants All American Check Cashing, Inc., Mid-State Finance, Inc., and Michael E. Gray ("Defendants"). The Bureau expressly reserves the right to clarify, revise, or correct any of its initial disclosures at any time. The Bureau will supplement its disclosures as necessary, pursuant to Fed.R.Civ.P. 26(e) ("Rule 26(e)").

No information contained in these disclosures should be construed as a waiver of any applicable privilege, including but not limited to the protections accorded to attorney work product. This information is being supplied for discovery purposes only under the requirements of Rule 26(a)(1)(A) and should not be shared, filed in Court, or made publicly available unless all personally identifiable information has been redacted.

**EXHIBIT 1**

**I. Rule 26(a)(1)(A)(i): Individuals likely to have discoverable information that the Bureau may use to support its claims.**

The subsections below indicate the entities and individuals who are likely to have discoverable information that the Bureau may use to support its claims, as well as the subject(s) of the discoverable information each individual or entity is likely to have. Due to the ongoing nature of the Bureau's investigatory work, the lists should not be read to limit the subject matter(s) about which particular individuals or entities may have discoverable information.

**A. Bureau Staff**

[REDACTED]

Subject(s): Information regarding Defendants obtained from third parties, including consumers and former employees; information regarding the check cashing and payday lending industry obtained from other businesses.

**B. Defendants and Their Employees, Independent Contractors, and Agents**

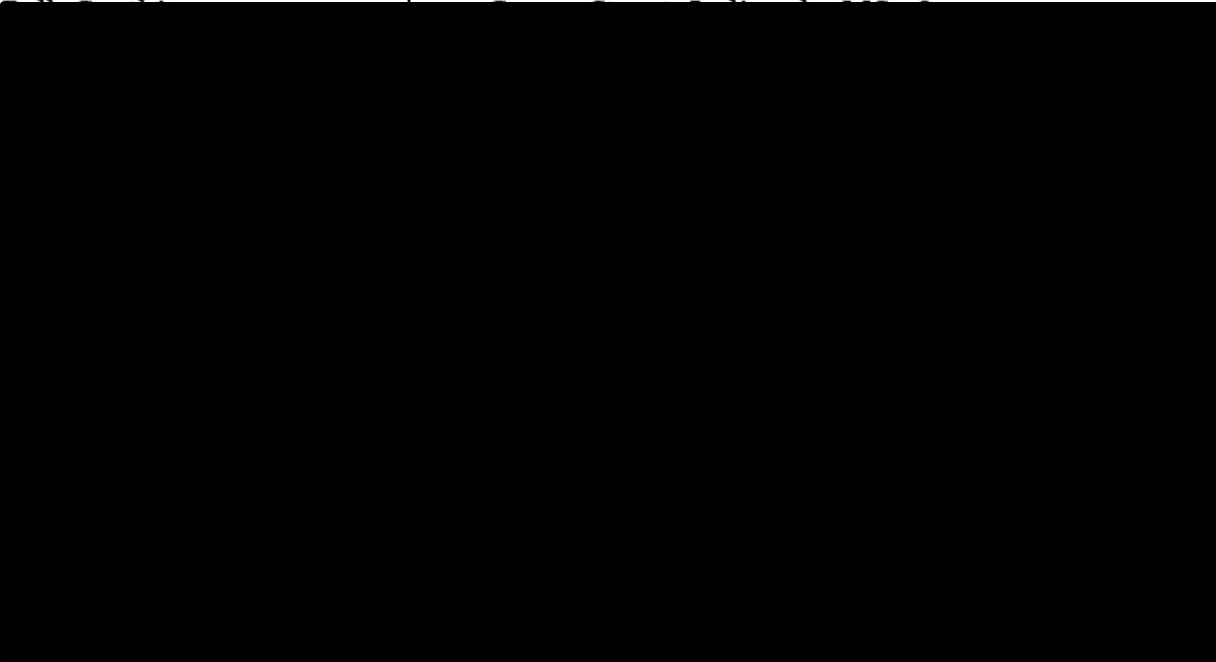
Defendants and their employees, independent contractors, and agents are likely to have discoverable information that the Bureau may use to support its claims, including but not limited to information about Defendants' business operations,

policies, procedures, practices, organization, finances, and interactions with consumers, as well as injuries to consumers and the role and knowledge of Defendant Michael E. Gray. The names of these individuals, as well as their contact information, are within the custody and control of Defendants. The individuals whom the Bureau has identified at this time are listed below. Through discovery and investigation, the Bureau may identify additional individuals who are likely to have discoverable information that the Bureau may use to support its claims, including individuals from the list of managers, officers, and directors provided by All American Check Cashing, Inc. in response to a civil investigative demand issued by the Bureau on September 3, 2014. *See Exhibit A.*

Name	Contact Information
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

**C. Defendants’ Former Employees**

Defendants’ former employees are likely to have discoverable information that the Bureau may use to support its claims, including but not limited to information about Defendants’ business operations, policies, procedures, practices, organization, finances, and interactions with consumers, as well as injuries to consumers and the role and knowledge of Defendant Michael E. Gray. The names of these individuals, as well as their contact information, are within the custody and control of Defendants. The individuals whom the Bureau has identified at this time are listed below. Through discovery and investigation, the Bureau may identify additional individuals who are likely to have discoverable information that the Bureau may use to support its claims, including individuals from the list of former employees provided by All American Check Cashing, Inc. in response to a civil investigative demand issued by the Bureau on September 3, 2014. *See* Exhibit B.

Name	Contact Information
	


#### **D. Defendants' Service Providers and Service Providers' Employees and Former Employees**

Defendants' service providers and their service providers' employees and former employees are likely to have discoverable information that the Bureau may use to support its claims, including but not limited to information about Defendants' business operations, organization, and interactions with consumers, as well as the calculation of damages and the role and knowledge of Defendant Michael E. Gray. The names of these entities and individuals, as well as their contact information, are within the custody and control of Defendants and/or their service providers. The entities that the Bureau has identified at this time are listed below. Through discovery and investigation, the Bureau may identify additional entities and individuals that are likely to have discoverable information that the Bureau may use to support its claims.

<b>Name</b>	<b>Contact Information</b>

#### **E. Financial Institutions**

Financial institutions that have held Defendants' assets or accounts are likely to possess discoverable information that the Bureau may use to support its claims, including but not limited to information about Defendants' financial operations, assets and liabilities, and transactions with consumers, as well as the calculation of damages and the role of Defendant Michael E. Gray. The names of these entities, as well as their contact information, are within the custody and control of Defendants. These entities



include the entities identified by All American Check Cashing, Inc. in response to a civil investigative demand issued by the Bureau on September 3, 2014. *See* Exhibit C.

Additional entities that the Bureau has identified at this time are listed below. Through discovery and investigation, the Bureau may identify additional entities not named in Exhibit C or below that are likely to have discoverable information that it may use to support its claims.

Name	Contact Information

#### **F. Consumer Protection Organizations**

Consumer protection organizations, and their employees and agents, are likely to have discoverable information that the Bureau may use to support its claims, including but not limited to information regarding Defendants' business activities, consumer complaints regarding those activities, actions taken by the organization, and completed or attempted communications with Defendants and their employees and agents. At this time, the Bureau is aware that the following organizations possess discoverable information that the Bureau may use to support its claims. Through discovery and investigation, the Bureau may identify additional organizations that are likely to have discoverable information that the Bureau may use to support its claims.

Name	Contact Information

### **G. State and Federal Regulatory Agencies**

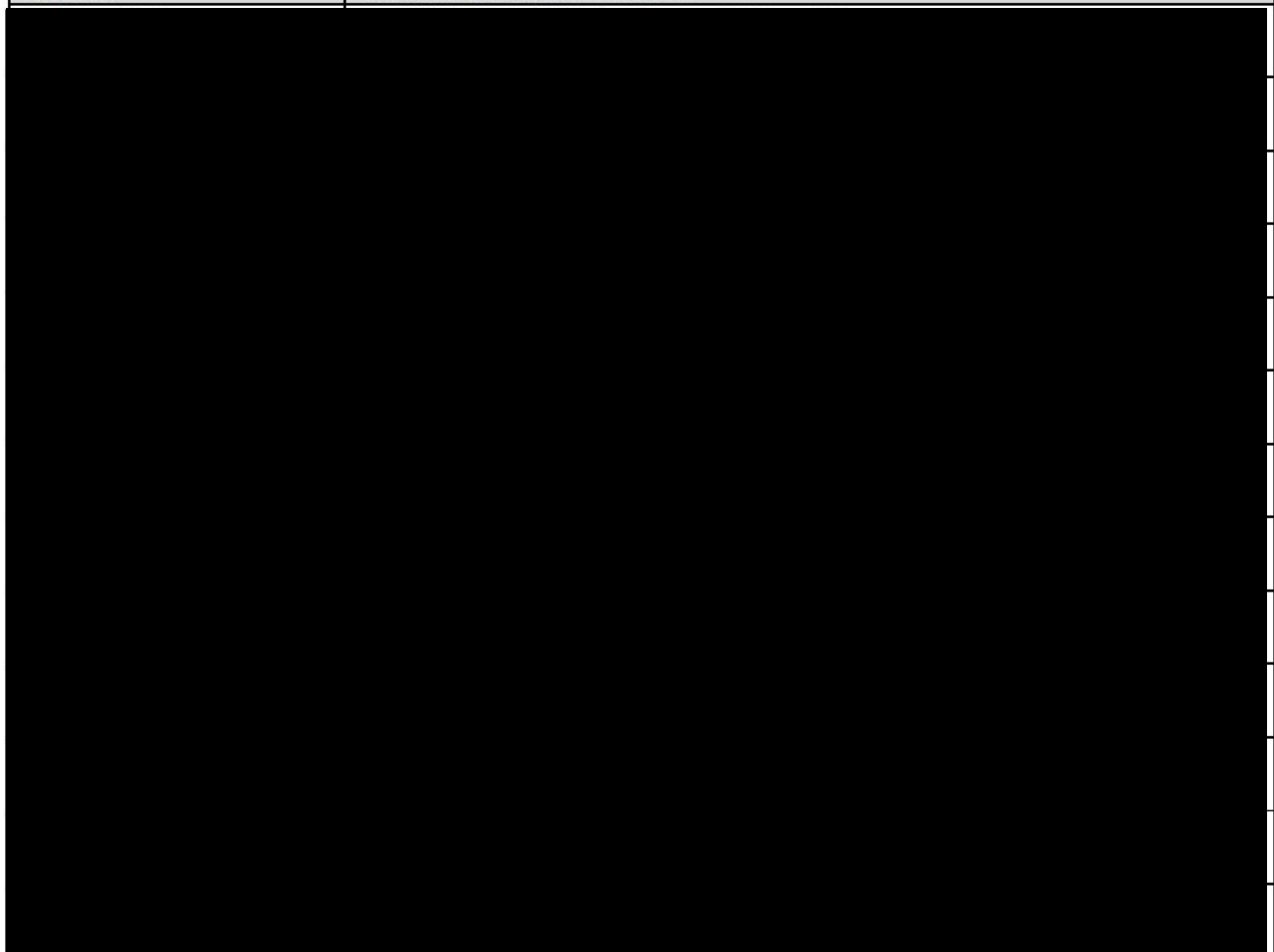
State and federal regulatory agencies, and their employees and agents, are likely to have discoverable information that the Bureau may use to support its claims, including but not limited to information regarding Defendants' business operations, policies, procedures, practices, organization, finances, and interactions with consumers, as well as injuries to consumers, actions taken by the regulatory agency, and communications with Defendants and their employees and agents. At this time, the Bureau is aware that the following agencies possess discoverable information that the Bureau may use to support its claims. Through discovery and investigation, the Bureau may identify additional organizations that are likely to have discoverable information that the Bureau may use to support its claims.

Name	Contact Information

### **H. Affected Consumers**

Consumers who purchased or used, or attempted to purchase or use, Defendants' payday lending or check cashing products and services, or who made an overpayment to Defendants, are likely to have discoverable information that the Bureau may use to support its claims, including but not limited to information regarding Defendants' business practices and activities, its interaction with consumers, and the resulting injury caused to consumers. Specifically, the following groups of consumers are likely to have discoverable information: (1) consumers paid monthly who obtained, or attempted to

obtain, payday loans from Defendants; (2) consumers who cashed, or attempted to cash, a check with Defendants; and (3) consumers who made an overpayment to Defendants. The individuals whom the Bureau has identified at this time are listed below. Through discovery and investigation, the Bureau may identify additional individuals who are likely to have discoverable information that the Bureau may use to support its claims. This information is being supplied for discovery purposes only pursuant to the requirements of Rule 26(a)(1)(A)(i) and should not be shared, filed in Court, or made publicly available unless all personally identifiable information regarding the consumers has been redacted.

Name	Contact Information
	



[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

**II. Rule 26(a)(1)(A)(ii): Description by category and location of all documents, electronically stored information, and tangible things that the Bureau has in its possession, custody, or control and may use to supports it claims.**

The following are descriptions by category of documents, electronically stored information (ESI), and tangible things in the Bureau's possession, custody and control that it may use to support its claims, all of which are located at the Bureau's offices at 1625 Eye Street, NW, Washington, DC 20006.

- Documents, ESI, and tangible things produced by Defendants in response to civil investigative demands and voluntary requests, including but not limited to e-mails and attachments, transactional data, policies, procedures, training materials, presentations, consumer complaints, accounting records, and financials.
- Documents and ESI relating to Defendants produced by eSoftware Solutions, Inc., d/b/a eCash Software Systems, in response to civil investigative demands

and voluntary requests, including but not limited to transactional data, consumer information, data dictionaries, and data schemas.

- Documents and ESI relating to Defendants produced by the following financial institutions in response to civil investigative demands, including but not limited to documents and information relating to accounts, such as bank statements and copies of checks: BankPlus, Citizens National Bank of Meridian, Coast Community Bank, Copiah Bank, Guaranty Bank and Trust, Hancock Bank, Holmes County Bank and Trust Company, Renasant Bank, and Trustmark National Bank.
- Documents and ESI relating to Defendants produced by the Mississippi Department of Banking and Consumer Finance (“DBCF”) that was obtained by the DBCF during or in relation to its investigation of Defendants, including documents and ESI produced to the DBCF by Defendants, former employees, and consumers, including but not limited to e-mails and attachments, policies, procedures, training materials, presentations, consumer complaints, and sworn statements and testimony.
- Documents and ESI obtained from publicly-available sources, including but not limited to websites and Secretary of State business entity searches.
- Consumer complaints filed directly with the Bureau, or other entities whose complaints are stored in the Federal Trade Commission’s Consumer Sentinel Network database, and with the Better Business Bureau.

### **III. Rule 26(a)(1)(A)(iii): Computation of each category of damages.**

Pursuant to 12 U.S.C. § 5565(a), the Bureau may seek legal or equitable relief with respect to Defendants' violations of Federal consumer financial laws including, but not limited to restitution, disgorgement of ill-gotten gains, and refunds of monies paid by consumers to Defendants. The Bureau will determine the full extent of consumer harm during discovery, including through the review of data obtained from Defendants, their service providers, and their financial institutions. The Bureau used data obtained from Defendants and from Defendants' service provider, eSoftware Solutions, Inc., to prepare a preliminary calculation of damages, described below. Additional discovery is needed, including regarding Defendants' database systems and recordkeeping practices, to confirm and supplement this analysis. The data used in these calculations is from the Defendants' records, but the Bureau is also providing the data in the form that it was produced to the Bureau with these initial disclosures.

#### **A. Time Period**

In this litigation, the Bureau seeks damages and penalties only for conduct on or after **July 21, 2011**.

#### **B. Check Cashing**

As a result of Defendants' illegal check cashing policies, procedures, and practices, the Bureau seeks all fees paid by consumers to cash a check with Defendants on or after July 21, 2011, that Defendants have not already refunded to consumers. The Bureau requires additional discovery to determine the amount of these fees, including discovery regarding Defendants' recordkeeping and database systems. In addition, the data that the Bureau is currently relying on to determine damages only extends until

October 2015. As a result, the Bureau's preliminary damages calculation does not include fees charged for checks cashed after October 2015. Based on the data currently in the Bureau's possession, the Bureau preliminarily calculates that the sum of all fees since July 21, 2011, less fees refunded to consumers, is approximately **\$4.4 million**. As the Bureau gathers additional information during discovery, this number may change.

### **C. First and Third Lending**

As a result of the deceptive statements made as part of Defendants' 1st and 3rd Lending, the Bureau seeks all fees paid by consumers on loans that were part of Defendants' 1st and 3rd Lending on or after July 21, 2011, that Defendants have not already refunded to consumers. The Bureau requires additional discovery to determine the amount of these fees, including discovery regarding Defendants' recordkeeping and database systems, as well as regarding 1st and 3rd Lending. The Bureau preliminarily calculates damages using the following criteria:

- The Bureau only includes fees paid by consumers whose customer records include a monthly pay frequency.
- The Bureau identifies fees paid by the consumer on payday loans where the consumer borrowed (i) some amount on or after the 26<sup>th</sup> day of the previous month and on or before the 10<sup>th</sup> day of the month, and (ii) some greater amount on or after the 11<sup>th</sup> day of the month and on or before the 25<sup>th</sup> day of the month.
- The Bureau does not include fees on loans originated after June 19, 2014, which is when the DBCF ordered Defendants to cease 1st and 3rd Lending.

If during discovery, the Bureau determines that 1st and 3rd Lending continued after that time, it would affect this damages calculation.

Based on the data currently in the Bureau's possession, using the criteria described above, the Bureau preliminarily calculates that the sum of all fees paid by consumers as part of Defendants' 1st and 3rd Lending, between July 21, 2011 and June 19, 2014, is approximately **\$3.6 million**. As the Bureau gathers additional information during discovery, this number may change.

#### **D. Overpayments**

The Bureau seeks refunds of all overpayments by consumers that were owed to consumers on or after July 21, 2011, that Defendants have not yet refunded to consumers. The Bureau has preliminarily identified at least **\$890,000** that was recorded in consumers' accounts as credits, owed by Defendants to consumers, on or after July 21, 2011, and that was then erased by Defendants. Defendants have claimed that not all these credits were the result of overpayments and that Defendants have provided refunds for those credits that were the result of overpayments. The Bureau requires additional discovery to determine whether or not all refunds for overpayments have been provided, including discovery regarding Defendants' recordkeeping and database systems.

#### **E. Civil Money Penalties and Costs**

The Bureau also seeks civil money penalties in accordance with 12 U.S.C. § 5565(c). The Consumer Financial Protection Act of 2010 ("CFPA") authorizes civil money penalties of up to \$5,000 per day for any violation; up to \$25,000 per day for any reckless violation; and up to \$1,000,000 per day for any knowing violation. 12



U.S.C. § 5565(c)(2). In addition, the Bureau seeks to recover its costs in connection with prosecuting this action, pursuant to 12 U.S.C. § 5565(b).

**IV. Rule 26(a)(1)(A)(iv): Insurance agreement.**

This category does not apply to the Bureau.

Dated: June 29, 2016

Respectfully submitted,

CONSUMER FINANCIAL PROTECTION BUREAU

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Enforcement Director

CARA PETERSEN  
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1700 G Street NW  
Washington, DC 20552  
Facsimile: (202) 435-7722

### **CERTIFICATE OF SERVICE**

I hereby certify that on June 29, 2016, a copy of the foregoing document, the Consumer Financial Protection Bureau's Initial Disclosures Pursuant to Fed.R.Civ.P. 26(a)(1), was served via email to counsel for Defendants, listed below:

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Consumer Financial Protection Bureau  
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Facsimile: (202) 435-7722

# **Exhibit A**

Employee Name	Job Title	Email Address	Business Address	Phone	Hire Date
[REDACTED]					

Employee Name	Job Title	Email Address	Business Address	Phone	Hire Date



Employee Name	Job Title	Email Address	Business Address	Phone	Hire Date

Employee Name	Job Title	Email Address	Business Address	Phone	Hire Date

## **Exhibit B**

Name	Position	Start date	End date	Reason for departure	Address	Phone	Email
[REDACTED]							

Name	Position	Start date	End date	Reason for departure	Address	Phone	Email



Name	Position	Start date	End date	Reason for departure	Address	Phone	Email

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Name	Position	Start date	End date	Reason for departure	Address	Phone	Email

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[REDACTED]							

Name	Position	Start date	End date	Reason for departure	Address	Phone	Email
[REDACTED]							

Name	Position	Start date	End date	Reason for departure	Address	Phone	Email

Name	Position	Start date	End date	Reason for departure	Address	Phone	Email

Name	Position	Start date	End date	Reason for departure	Address	Phone	Email



Name	Position	Start date	End date	Reason for departure	Address	Phone	Email

Name	Position	Start date	End date	Reason for departure	Address	Phone	Email

# **Exhibit C**

Bank	Address	City	State	Zip	Phone	Nature of account	# of Accts.	Dates Active

Bank	Address	City	State	Zip	Phone	Nature of account	# of Accts.	Dates Active

Bank	Address	City	State	Zip	Phone	Nature of account	# of Accts.	Dates Active